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Karen Knudson

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Reg 7 or 600  
7-10-03

<b>RESPONSE</b>			Docket No. <b>THY002USPT01</b>
Serial No. <b>09/804,769</b>	Filing Date <b>March 13, 2001</b>	Examiner <b>Jeffrey J. Restifo</b>	Group Art Unit <b>3618</b>
Applicant:	<b>Cardinal et al.</b>		
Invention:	<b>CRUISE CONTROL SAFETY DISENGAGEMENT SYSTEM</b>		

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This Response is being filed in reply to the Office Action mailed March 31, 2003 to which a response is due on or before June 30, 2003.

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No claims have been amended. No claims have been canceled. No new claims have been added. Claims 1-17 remain pending in the application.

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***Objections/Rejections  
Under 35 U.S.C. § 103***

**1.0** *The Examiner has rejected claims 1-17 under 35 U.S.C. 103(a) as unpatentable over Phung et al. in view of Blaney.*

**SUMMARY OF CITED REFERENCES**

**Official**

**Phung et al. (United States Patent No. 6,370, 469)** discloses a cruise control system for a motor vehicle which monitors lateral acceleration and adjusts the torque command value employed by the cruise control system dependant upon a comparison of actual lateral acceleration to predetermined minimum and maximum lateral acceleration limits.

**Blaney (United States Patent No. 4,522,280)** discloses a safety system for automatically disengaging an automotive cruise control system for a motor vehicle whenever a failure or malfunction of the vehicle braking system or cruise control system is detected. One aspect of the safety system compares the vehicle's forward operating speed with a predetermined peak forward operating speed when the "resume" mode of the cruise control system has been actuated and the vehicle is accelerating towards a predetermined cruise control speed. In the event the vehicle's forward operating speed exceeds the predetermined peak forward operating speed, the safety system disengages the cruise control.

**SUMMARY OF CLAIMED INVENTION**

**The Present Claimed Invention** is directed to a cruise control swerve release system effective for automatically and directly disengaging a cruise control system when a vehicle experiences a threshold value of lateral acceleration indicative of a loss or impending loss of driver control.

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## LEGAL BASIS

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, NOT in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). See, M.P.E.P. § 2143.

NEITHER PHUNG ET AL. NOR BLANEY  
DISCLOSE EACH AND EVERY ELEMENT  
OF THE CLAIMED INVENTION.

Phung et al. discloses a cruise control system which monitors lateral acceleration and compensates the torque command aspect of the cruise control system based upon a comparison of the sensed lateral acceleration relative to predetermined minimum and maximum lateral acceleration limits. Blaney disconnects a cruise control system when the "resume" mode of the cruise control system has been actuated and the vehicle's forward speed is found to have exceeded a predetermined peak forward speed. The Present Claimed Invention disengages the cruise control system on a vehicle when excessive lateral acceleration is detected. Neither Phung et al. nor Blaney disclose, teach, or suggest a system which disengages the cruise control system on a vehicle when the vehicle experiences a *lateral acceleration* which exceeds a threshold value.

The control systems of Phung et al., Blaney and the Present Claimed Invention are substantially different. By way of example, an automobile equipped with the control system of Phung et al. traveling with an activated cruise control which suddenly swerves over a median as the result of an abrupt incapacitation of the driver (e.g., heart attack or seizure) and thereafter travels a relatively straight path into oncoming traffic, would be initially slowed by the control system based upon detection of the sudden swerve, but would thereafter return control to the cruise control system and allow the vehicle to accelerate towards oncoming traffic. The same

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automobile equipped with the control system of Blaney would continue to speed towards the oncoming traffic under the influence of the cruise control because the control system of Blaney only disengages the cruise control when the forward speed exceeds a predetermined threshold forward speed. In sharp contrast, the same vehicle equipped with the control system of the Present Claimed Invention would begin to slow down upon detection of the sudden swerve and would continue to slow because the control system deactivates the cruise control as a result of the sudden swerve.

NEITHER PHUNG ET AL. NOR BLANEY  
PROVIDES MOTIVATION TO MODIFY  
THE PRIOR ART SYSTEMS TO ACHIEVE  
THE PRESENT INVENTION

In order to determine the propriety of an obviousness rejection, it is necessary to ascertain whether or not the reference or references motivate one of ordinary skill in the relevant art, having the reference or references before him, to make the proposed substitution, combination, or modification. In re Linter, 458 F.2d 1013, 173 U.S.P.Q. 560, 562 (CCPA 1972). Obviousness can only be established where there is some teaching, suggestion, or motivation in the prior art or in the knowledge generally available to one of ordinary skill in the art, to combine the references and produce the claimed invention. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 U.S.P.Q.2d 1941 (Fed. Cir. 1992). See, M.P.E.P. §2143.01.

Phung et al. discloses a controller for a cruise control system of a motor vehicle which compensates the torque command aspect of the cruise control system based upon sensed lateral acceleration of the vehicle. Blaney discloses a safety system for automatically disengaging a cruise control system for a motor vehicle whenever a failure or malfunction of the cruise control system is detected, such as detection of a forward operating speed which exceeds a predetermined peak forward operating speed while the "resume" mode of the cruise control system is accelerating the forward operating speed of the vehicle. Neither Phung et al. nor Blaney disclose, teach or suggest selectively combining Phung et al and Blaney to effect *disengagement* of a cruise control system based upon excessive *lateral acceleration*. The Examiner is employing forbidden

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hindsight to recreate the Present Claimed Invention. Loctite Corp. v. Ultraseal Ltd., 781 F.2d 861, 873, 228 USPQ 90, 98 (Fed. Cir. 1985).

### CONCLUSION

Applicant respectfully submits that all pending claims (claims 1-17) are in condition for allowance.

Respectfully submitted,

Date 27 June 03

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